

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ALAN LYNN MCDONALD, #1039962,
Petitioner,

vs.

WARDEN SMITH,
James V. Allred Unit,
Respondent.


No. 3:23-CV-415-M (BH)

ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

After reviewing the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and conducting a *de novo* review of those parts of the Findings and Conclusions to which objections have been made, I am of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.

By separate judgment, the *Amended Petition for a Writ of Habeas Corpus by a Person in State Custody*, received on March 21, 2023 (doc. 5), will be **TRANSFERRED** to the United States Court of Appeals for the Fifth Circuit as a successive 28 U.S.C. § 2254 petition pursuant to *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002), and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997).¹

SIGNED this 24th day of April, 2023.


BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE

¹ A certificate of appealability (COA) is not required to appeal an order transferring a successive habeas petition. See *In re Garrett*, 633 F. App'x 260, 261 (5th Cir. 2016); *United States v. Fulton*, 780 F.3d 683, 688 (5th Cir. 2015).